

REMARKS

The applicants respectfully requests reconsideration of the above referenced patent application in view of the amendments and remarks set forth herein, and respectfully request that the Examiner withdraw all rejections. Claims 1, 15-16, 19-21 and 23 have been amended. No claims have been canceled. No claims have been added. Thus, claims 1 and 3-33 are pending.

35 U.S.C. §102 Rejections

35 U.S.C. §102(e) rejection over *Xu*

The Office Action rejects claims 1 and 23-24 under 35 U.S.C. §102(e) as being anticipated by *Xu*. Currently amended independent claim 1 recites in a salient portion (emphasis added):

“receiving a policy specifying user preferences provided by a user **at the network node**;
monitoring a network interface characteristic **at the network node**;
selecting **for the network node** a network interface...”

The Office Action alleges that *Xu* columns 5, 16, 21 and 27 disclose selection of a network interface by matching user preferences to a network interface characteristic. The rejection specifically discusses the network interface characteristic as comprising data from the multi-bearer network interface (bearers). The Office Action further alleges that *Xu* column 34 and 35 disclose the modification of a metric field in a routing table which is associated with network interface selections.

The amendments to claim 1, as supported in the original disclosure at least by FIG. 1 and page 4, lines 15-26, disclose the selection of a network interface for a node based on preferences chosen at that node and characteristics monitored at that same node. The applicants respectfully submit that claim 1 as amended contains at least one element not taught by *Xu*, as required under 35 U.S.C. §102. Insofar as *Xu* discloses any selection of a network interface, the interface selected is not at the node *used by the user* to enter their network interface preferences. Furthermore, insofar as *Xu* is basing an interface selection on network interface characteristics, those characteristics are not disclosed in *Xu* as being characteristics monitored *at that same node* used by the user.

For at least the foregoing reasons, the applicants submit that currently amended independent claim 1 is patentable as it recites at least an element not taught by *Xu*. Claims 23 and 24 were rejected in the Office Action on the same grounds as the 35 U.S.C. §102(e) rejection of claim 1. Claim 23 has been amended to add for claims 23 and 24 the same limitations as amended claim 1. Accordingly, dependent claims 23 and 24 are patentable for substantially the same reasons as amended claim 1. Therefore, the applicants request that the 35 U.S.C. §102(e) rejection of claims 1, 23 and 24 based on *Xu* be withdrawn.

35 U.S.C. §103(a) Rejections

35 U.S.C. §103(a) rejection over *Xu* and *Nakamura*

The Office Action rejected claims 3-5 and 25-27 under 35 U.S.C. §103(a) as being unpatentable over *Xu* according to the previous rejections of claims 1, 23 and 24,

and further in view of Nakamura et al., USPN 6,553,031 (*Nakamura*). In rejecting claims 3-5, the Office Action relies in part on the 35 U.S.C. §102(e) rejection of claims 1, and 23-24 discussed above. *Xu*, para.33 is further cited as allegedly disclosing the raising and lowering of selection priority for a network interface, while FIGS. 5 and 6 of *Nakamura* are alleged to disclose use of a routing table.

Claims 3-5 depend from amended claim 1, and the Office Action based the rejection of these claims in part on the rejection of claim 1 discussed above. The applicants submit that the cited references do not combine to teach or suggest an element of the claims, as required by 35 U.S.C. §103. Specifically, amended claim 1 has as a limitation the selection of a network interface for a node based on preferences chosen at that node and characteristics monitored at that same node. As discussed above, the limitations added to claim 1 by amendment are not taught by *Xu*. *Nakamura* is cited to teach the use of a routing table. *Nakamura* is not cited to teach nor does *Nakamura* teach or suggest the limitations added to claim 1 by amendment. Therefore, no combination of *Xu* and *Nakamura* teaches or suggests every limitation in claim 1. Since claims 3-5 depend from claim 1, the cited art fails to suggest a limitation in the rejected claims.

For at least the foregoing reasons, the applicants submit that claims 3-5 recite at least one element not suggested by *Xu* and *Nakamura*. Claims 25-27 were rejected in the Office Action on the same grounds as the rejection of claims 3-5. Claim 23 has been amended to include within claims 25-27 the limitations in claims 3-5. Accordingly, claims 25-27 are patentable for substantially the same reasons as claims 3-5. Therefore,

the applicants request that the 35 U.S.C. §103(a) rejection of claims 3-5 and 25-27 based on *Xu* and *Nakamura* be withdrawn.

35 U.S.C. §103(a) rejection over *Xu* and *Lindell*

The Office Action rejected claims 6-11 and 28-33 under 35 U.S.C. §103(a) as being unpatentable over *Xu* according to the previous rejections of claims 1, 3-5, and 25-27 and further in view of *Lindell*, US PG Pub. 20020039892 (*Lindell*). The Office Action alleges that *Xu* discloses the use of preferences to choose a network interface, and further alleges that *Lindell* discloses those preferences as concerning cost, battery consumption, signal strength, latency value, bandwidth, and reliability.

The applicants submit that the cited references do not combine to teach or suggest an element of the claims, as required by 35 U.S.C. §103. Claims 6-11 depend from amended claim 1, which has as a limitation the selection of a network interface for a node based on preferences chosen at that node and characteristics monitored at that same node. As discussed above, the limitations added to claim 1 by amendment are not taught by *Xu*. *Lindell* is cited to teach implementation of various types of user preferences. *Lindell* is not cited to teach nor does *Lindell* teach or suggest the limitations added to claim 1 by amendment. Therefore, no combination of *Xu* and *Lindell* teaches or suggests every limitation in claim 1. Since claims 6-11 depend from claim 1, the cited art fails to suggest a limitation in the rejected claims.

For at least the foregoing reasons, the applicants submit that claims 6-11 each recite at least one element not suggested by *Xu* and *Lindell*. Claims 28-33 were rejected

in the Office Action on the same grounds as the rejection of claims 6-11. Claim 23 has been amended to include within claims 28-33 the limitations in claims 6-11.

Accordingly, claims 28-33 are patentable for substantially the same reasons as claims 6-11. Therefore, the applicants request that the 35 U.S.C. §103(a) rejection of claims 3-5 and 25-27 based on *Xu* and *Lindell* be withdrawn.

35 U.S.C. §103(a) rejection over *Xu*

The Office Action rejected claims 12-22 under 35 U.S.C. §103(a) as being unpatentable over *Xu* according to the rejections of claims 1, 3-11 and 23-33. Claims 12-14 are further rejected for using means of receiving user preferences which are allegedly obvious in light of *Xu*. Claims 15-22 are also rejected for using allegedly obvious means for specifying user preferences, selecting network interfaces, and monitoring network interfaces.

The applicants submit that the cited reference do not teach or suggest each element of the claims, as required by 35 U.S.C. §103. Claims 12-14 depend from amended claim 1, which has as a limitation the selection of a network interface for a node based on preferences chosen at that node and characteristics monitored at that same node. As discussed previously, this is a limitation not taught by *Xu*. *Xu* is not cited to teach, nor does *Xu* teach or suggest those limitations added to claim 1 by amendment. Since claims 12-14 depend from claim 1, the cited art fails to suggest a limitation in the rejected claims.

The applicants submit that the cited references do not combine to teach or suggest an element of the claims, as required by 35 U.S.C. §103. Amended claim 15 has as a limitation the selection of a network interface for a node based on preferences chosen at that node and characteristics monitored at that same node. As with the foregoing discussion of amended claim 1, this is a limitation not taught by *Xu*. *Xu* is not cited to teach, nor does *Xu* teach or suggest those limitations added to claim 15 by amendment. Since claims 16-22 depend directly or indirectly from claim 15, the cited art fails to suggest a limitation in the rejected claims.

For at least the foregoing reasons, the applicants submit that claims 15-22 each recite at least one element not suggested by *Xu*. Claims Therefore, the applicants request that the 35 U.S.C. §103(a) rejection of claims 15-22 based on *Xu* be withdrawn.

Conclusion

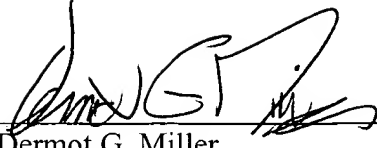
For at least the foregoing reasons, the applicants submit that the objections and rejections have been overcome. Therefore, claims 1 and 3-33 are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application. Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP

Application No. 09/967,065
Amendment dated April 21, 2006
Response to Office Action of July 28, 2005

Atty. Docket No. 042390.P11810
Examiner Lin, Wen Tai
TC/A.U. 2154

Date: 04/21/06


Dermot G. Miller
Attorney for Applicant
Reg. No. 58,309

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026
(503) 439-8778

I hereby certify that this correspondence is being deposited with
the United States Postal Service as first class mail with sufficient
postage in an envelope addressed to Commissioner for Patents,
P.O. Box 1450, Alexandria, VA 22313 on:

4-21-06

Date of Deposit

Gayle Bekish

Name of Person Mailing Correspondence

Gayle
Signature

4-21-2006
Date